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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,856	03/23/2001	John Zimmerman	US 010094	5812

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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER	
TRAN, HAI V	
ART UNIT	**PAPER NUMBER**
2623	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/815,856	ZIMMERMAN, JOHN	
	Examiner	Art Unit	
	Hai Tran	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 January 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) *3,10,19 and 20* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-2,5,8-9,12,15-16 and 25-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/19/2007 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 1-2, 4-9, 11-18, 21-24 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-2, 5, 8-9, 12, 15-16, and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (US 5758257) in view of Deep (US 2003/0023508).

Claim 1, Herz discloses a method for making a recommendation in a lifestyle recommendation machine , the method comprising the steps of:

Providing a celebrity profile of a celebrity to a user (Col. 49, lines 1-6);

Making a recommendation, i.e., reporting, to the user for an item service, and /or event based on the celebrity profile (Col. 47, lines 20-Col. 49, lines 5);

Herz does not clearly disclose the celebrity profile contains an image/picture of the corresponding celebrity so the system able to display the corresponding picture/image of the corresponding profile of the celebrity/customer/viewer along with the recommendation.

Deep discloses a personal data file includes a corresponding personal picture provided by that person along with his/her personal profile/history. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz with the teaching of Deep to have each celebrity profile file contains a picture of the celebrity, as taught by Deep, for the benefit of displaying the picture of the individual along with the recommendation so that the viewer with recognize that the receiving recommendation is based on the profile of the displayed picture/image of the person, i.e., the celebrity.

Claim 2, the claimed recommendation being a recommendation of television programming is met by the discussion of a program being defined as a television program (Herz, Col. 4-6, Summary).

Claims 5 and 26, Herz in view of Deep teaches all of that which is discussed above with regards to claim 1 in which the image is a still image of the celebrity.

Claim 8, is analyzed with respect to claim 1, in which Herz further discloses means for obtaining a celebrity profile of a celebrity from an external source and storing the celebrity profile on the lifestyle recommendation device; means for a user selecting the celebrity profile from one or more stored celebrity profiles (Col. 48, lines 55-Col.49, lines 18).

Claim 9, Herz (Fig. 5, el. 508) further discloses wherein the lifestyle recommendation device is a television programming storage device.

Claim 12 is analyzed with respect to method claim 5.

Claim 15, a program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform method step for making a recommendation in a lifestyle recommendation machine is analyzed with respect to method claim 8.

Claim 16, a computer product embodied in a computer readable medium for making a recommendation in a lifestyle recommendation machine is analyzed with respect to method claim 8.

Claim 25 is analyzed with respect to claim 1.

2. Claims 4, 7, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (US 5758257) in view of Deep (US 2003/0023508), and further in view of Gruber et al. (US 2002/0073026).

Claim 4, Herz in view of Deep does not clearly discloses "wherein the image is a video of the celebrity and the reporting step comprises playing accompanying audio which announces the recommendation".

Gruber discloses the reporting comprises playing a video of the celebrity accompanying audio, which announces the recommendation (page 5, §0060). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Deep with the teaching of Gruber so the featured individual, i.e., celebrity, can speak and encourage the viewer to view the recommendation.

Claim 7, Herz in view of Deep does not clearly disclose, "the reporting audio which announces the recommendation".

Gruber discloses the reporting comprises playing a video of the celebrity accompanying audio, which announces the recommendation (page 5, §0060). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Deep with the teaching of Gruber so the featured individual, i.e., celebrity, can speak and encourage the viewer to view the recommendation.

Claim 11 is analyzed with respect to method claim 4.

Claim 14 is analyzed with respect to method claim 7.

3. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (US 5758257) in view of Deep (US 2003/0023508), and further in view of Prokopenko et al. (US 7188355).

Claim 6, Herz in view of Deep teaches all of that which is discussed above with regards to claim 5.

Herz in view of Deep does not clearly disclose the "reporting step further comprises displaying a textual message which announces the recommendation."

Prokopenko discloses the reporting further comprises displaying a textual message, which announces the recommendation (see Fig. 4, Col. 8, lines 33-53).

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Herz in view of Deep with the teaching of Prokopenko

to include textual message along with hosts/celebrity for recommending the TV program.

Claim 13 is analyzed with respect to method claim 6.

4. Claims 17-22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (US 5758257) in view of Deep (US 2003/0023508), and further in view of Noel Massey et al. (GB 2346527 A).

Claim 17, Herz discloses a method for making a recommendation in a lifestyle recommendation machine , the method comprising :

Substituting a user profile based on explicit and/or explicit direction of a user with a profile of a celebrity (Col. 49, lines 1-6);

Making a recommendation for an item service, and /or event based on the celebrity profile and reporting the recommendation to the user (Col. 47, lines 20-Col. 49, lines 5);

Herz does not clearly disclose that neither the celebrity profile contains an image/picture of the corresponding celebrity/customer/viewer so the system able to display the corresponding picture/image of the corresponding profile of the celebrity along with the recommendation.

Deep discloses a personal data file includes a corresponding personal picture provided by that person along with his/her personal profile/history. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify Herz with the teaching of Deep to have each user/celebrity profile file contains a picture of the user/celebrity, as taught by Deep, for the benefit of displaying the picture of the individual along with the recommendation so that the viewer with recognize that the receiving recommendation is based on the profile of the displayed picture/image of the person, i.e., the celebrity, the viewer.

Herz in view of Deep does not clearly disclose the use of a synthetic celebrity of the corresponding celebrity.

Massey discloses a method of generating a virtual actors (page 6, line 26-page 5, lines 12). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Deep with the teaching of Massey so the featured image of the celebrity can be generated as virtual celebrity in a realistic way to user thereby providing to user an alternative way to view the celebrity as virtual celebrity.

Claim 18, Herz (col. 48, lines 55 - col. 49, lines 6) in view of Deep and Massey further discloses that a celebrity profile can be downloaded from an external source and used to suggest programming.

Claim 21, Herz in view of Deep and Noel Massey (page 23, lines 14-page 24, lines 3) further discloses wherein the synthetic celebrity is a video of the celebrity

and the reporting step comprises playing accompanying audio, which announces the recommendation.

Claim 22, limitation "displaying a still image of the synthetic celebrity" is further met by Noel Massey because it is obvious to present the virtual animated celebrity as a still image by displaying only one video frame.

Claim 24, limitation "wherein the reporting step comprises playing accompanying audio, which announces the recommendation" is further met by Herz in view of Deep and Noel Massey (page 23, lines 14-page 24, lines 3).

5. Claim 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (US 5758257) in view of Deep (US 2003/0023508), and further in view of Noel Massey et al. (GB 2346527 A) and further in view of Prokopenko et al. (US 7188355).

Claim 23, Herz in view of Deep and Noel Massey teaches all of that which is discussed above with regards to claim 17.

Herz in view of Deep and Noel Massey does not clearly disclose the "reporting step further comprises displaying a textual message which announces the recommendation."

Prokopenko discloses the reporting further comprises displaying a textual message, which announces the recommendation (see Fig. 4, Col. 8, lines 33-53).

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Herz in view of Deep and Noel Massey with the teaching of Prokopenko to include textual message along with the celebrity for recommending the TV program.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HT:ht
03/30/2007

HAI TRAN
PRIMARY EXAMINER